

FILED
Clerk
District Court

MAY - 4 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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Attorney for Defendant Robert A. Bisom

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

ROBERT D. BRADSHAW,

Plaintiff,

vs.

COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS, NICOLE C. FORELLI,
WILLIAM C. BUSH, D. DOUGLAS COTTON,
L. DAVID SOSEBEE, ANDREW CLAYTON,
UNKNOWN AND UNNAMED PERSONS IN
THE CNMI OFFICE OF THE ATTORNEY
GENERAL, ALEXANDRO C. CASTRO, JOHN
A. MANGLONA, TIMOTHY H. BELLAS,
PAMELA BROWN, ROBERT BISOM and JAY
H. SORENSEN,

Defendants.

CASE NO. CV 05-00027

JOINDER IN MOTION OF
ANDREW CLAYTON TO QUASH
SERVICE AND OPPOSITION TO
MOTION FOR ENTRY OF
DEFAULT

Date: Thursday, June 8, 2006
Time: 9:00 a.m.
Judge: Hon. Alex R. Munson

Robert A. Bisom, appearing specially through the undersigned counsel of record to challenge service of process, hereby files the following joinder in Defendant Clayton's Motion to Quash For Defective Service Pursuant to Fed. R. Civ. P. 4 and 12(b)(5) and Incorporated Memorandum of Points and Authorities and, for the reasons stated in Defendant Clayton's Motion, Mr. Bisom opposes plaintiff's motion for the entry of Mr. Bisom's default in this action. Robert A. Bisom has not been properly served in this matter and his default should not enter.

FACTS RELEVANT TO THIS MOTION

1. Robert A. Bisom is an individual currently residing in Japan. See Declaration of Robert A. Bisom filed in Case No. 05-84-N-EJL, United States District Court for the District of Idaho, a true and correct copy of which is attached hereto. The Idaho proceedings were

ORIGINAL

1 publication on Robert A. Bisom in this case.

2 Title 7, Section 1102(b) of the Commonwealth Code provides that substituted service
3 may be made pursuant to the provisions of 7 C.M.C. § 1104 “if the person cannot be found
4 in the Commonwealth.” Section 1104(b) states in full:

5 After service on the Attorney General, if the defendant cannot be personally
6 served by mail the summons and complaint, and if by affidavit or otherwise the
7 court is satisfied that with reasonable diligence the defendant cannot be served,
8 and that a cause of action arises against the party upon whom service is to be
9 made, or he is a necessary and proper party to the action, the court may order
10 that service be made by publication of the summons in at least one newspaper
11 published and having a general circulation in the Commonwealth. Publication
12 shall be made once each week for four successive weeks, and the last
13 publication shall be not less than 21 days prior to the return date stated herein.

14 Here, plaintiff did not demonstrate his efforts to properly serve Bisom; instead he relied
15 solely on his previously debunked, improper efforts to serve Bisom through defendant Jay
16 Sorensen, and Jay Sorensen’s continuing communication with Robert A. Bisom, despite the
17 fact that he knows that Sorensen is not representing Bisom in this matter.

18 No other efforts whatsoever to serve Robert Bisom are identified in plaintiff’s Motion
19 to Serve Robert A. Bisom by Publication and plaintiff’s supporting Affidavit. Plaintiff did not
20 allege attempted service in any other place or in any other manner, by personal service, by
21 mail, by waiver, through the Hague Convention or otherwise. Indeed, Plaintiff did not even
22 allege that Robert A. Bisom cannot be found in the Commonwealth. *See* 7 C.M.C. § 1102(b).

23 Further, there was no demonstration by the plaintiff, and there was no express finding
24 by the Court, that a cause of action has arisen against Robert Bisom and in favor of plaintiff
25 that would satisfy the statutory requirement. Indeed, given the previous dismissal of this case
26 and upcoming consideration of the efficacy of plaintiff’s Second Amended Complaint, it is at
27 the very least questionable whether Robert A. Bisom *should* be served by publication at this
28 stage notwithstanding that the plaintiff has failed to meet the statutory requirements that
would otherwise allow such substituted service were it not for the Hague Convention.

1 In short, plaintiff has yet to effect proper service on Robert A. Bisom and, accordingly,
2 his motion to have Mr. Bisom's default entered and for an award of monetary damages (wholly
3 unwarranted and unsupported) must be denied.

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5 Respectfully submitted this 4th day of May, 2006.

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Appearing Specially for Robert A. Bisom

CERTIFICATE OF SERVICE

I, Rowena de Vera, hereby certify that this day a copy of the foregoing was deposited in the United States Post Office, first class mail, postage prepaid, addressed to the following:

Robert D. Bradshaw, Plaintiff *pro se*
P.O. Box 473
1530 W. Trout Creek Road
Calder, Idaho 83808

Kristin D. St. Peter, Assistant Attorney General
Office of the Attorney General
Civil Division—Capitol Hill
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Caller Box 10007
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Patrick G. Civile, Esq.
Civille and Tang, PLLC
330 Herman Cortez Ave., Suite 200
Hagatna, Guam 96910

DATED: May 4, 2006


ROWENA DE VERA

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Attorneys for Defendant – Robert A. Bisom

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

ROBERT D. BRADSHAW,

Plaintiff,

vs.

COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS (hereafter referred to as
the CNMI); NICOLE C. FORELLI, former
Acting Attorney General of the CNMI, in her
personal/individual capacity; WILLIAM C.
BUSH, former Assistant Attorney General of
the CNMI, in his personal/individual capacity;
L. DAVID SOSEBEE, former Assistant
Attorney General of the CNMI, in his
personal/individual capacity; ANDREW
CLAYTON, former Assistant Attorney
General of the CNMI, in his personal/
individual capacity; Other UNKNOWN and
UNNAMED person or persons in the CNMI
OFFICE OF THE ATTORNEY GENERAL,
in their personal/individual capacity, in 1996-
2002; ALEXANDRO C. CASTRO, former
Judge Pro Tem of the CNMI SUPERIOR
COURT, in his personal/individual capacity;
JOHN A. MANGLONA, Associate Justice of
the CNMI SUPREME COURT, in his

Case No. 05-84-N-EJL

DECLARATION OF ROBERT A.
BISOM IN SUPPORT OF HIS
MOTION TO DISMISS BASED ON
LACK OF PERSONAL
JURISDICTION (F.R.C.P. 12(B)(2)),
IMPROPER VENUE (F.R.C.P. 12(B)
(3)), AND INSUFFICIENCY OF
SERVICE OR PROCESS (F.R.C.P.
12(B)(5)).

personal/individual capacity; TIMOTHY H. BELLAS, former Justice Pro Tem of the CNMI SUPREME COURT, in his personal /individual capacity; ROBERT A. BISON; JAY H. SORENSEN, and the UNITED STATES DEPARTMENT OF INTERIOR,

Defendants.

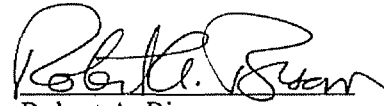
I, Robert A. Bisom, declare as follows:

1. I have personal knowledge of the information contained in this declaration.
2. I am a teacher living in Japan. I have been living in Japan since 1997.
3. Prior to moving to Japan, I lived in Saipan, CNMI. I lived in Saipan from 1993 to 1997.
4. My domicile or legal residence at this time is Japan.
5. I am slightly familiar with the allegations made in the Amended Complaint by Robert A. Bradshaw against me in Case CV 05-84-N-EJL. The various counts alleged against me, Counts 12, 13, and 15-18 stem from events associated with the lawsuit between myself and Robert Bradshaw. Jay Sorensen represented me in that case which was filed and adjudicated in the Superior Court of the Commonwealth of the Northern Mariana Islands. All actions I took in connection with that case occurred in the CNMI.
6. I did not have any connections with the state of Idaho prior to contacting the firm of Ramsden & Lyons to represent me in this action.

7. I have never lived in the state of Idaho, nor have I ever been inside the borders of the state of Idaho. Idaho is not my residence or domicile, nor do I have a dwelling house or usual place of abode in Idaho.
8. I have never committed or directed any tort or similar action against the state of Idaho or anyone in the state of Idaho.
9. I have never conducted business in Idaho, availed myself of the benefits of the state of Idaho and have never incurred any obligation to pay taxes in the state of Idaho.
10. I have not been served with the Summons and Amended Complaint in this action. I have not received a copy of the Summons. I have received a copy of the first 2 pages of the Amended Complaint from Mr. Jay Sorensen. I have never authorized Cynthia Sorensen to act as my agent, employee, or to accept service of process on my behalf.
11. The house at which the Summons and Amended Complaint were served is a house that I have been told formerly belonged to the mother of Jay Sorensen before she died last year. I have never lived in that house. That house has never been my residence, domicile, dwelling house, or usual place of abode.
12. I do not consent to the personal jurisdiction of courts of the state of Idaho or federal court located in Idaho.
13. No state or federal court in Idaho has ever found the exercise of personal jurisdiction over me.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 21, 2005 at JAPAN.


Robert A. Bisom

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2005, I electronically filed the foregoing city the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

Candy W Dale (cwg@hallfarley.com krt@hallfarley.com)

Matthew J Ryden (mjr@hallfarley.com ccv@hallfarley.com)

And, I hereby certify that I have mailed by United States Postal Service the foregoing document(s) to the following non-CM/ECF Registered Participant(s):

Robert D Bradshaw
P O Box 473
Calder, ID 83808

/s/Marc A. Lyons

Marc A. Lyons